

2004 WL 5725359 (Miss.Cir.) (Trial Pleading)
Circuit Court of Mississippi.
Grenada County

Anne DONALDSON, as Personal Representative Of Cephus Coleman, Jr., Deceased and on
Behalf Of the Wrongful Death Beneficiaries Of Cephus Coleman, Jr., Deceased, Plaintiffs,

v.

GRENADA LIVING CENTER LLC, Community Care Center of Grenada LLC, Comm
Care Mississippi, James S. Williams, James C. Landers, and John Does 1-10, Defendants.

No. 2004-0437CVM.
August 27, 2004.

Complaint

Anne Donaldson, as Personal Representative Of Cephus Coleman, Jr., Deceased and on Behalf Of the Wrongful Death Beneficiaries Of Cephus Coleman, Jr., Deceased, [Gigi Gibson](#), Of Counsel: [Charles E. Gibson III](#), MB#4821, [Gigi Gibson](#), MB #100540, Edward Gibson, MS# 100640, The Gibson Law Firm, PLLC, 620 North Street, Suite 100, Post Office Box 3493, Jackson, MS 39207-3493, Telephone: 601-354-2007, Facsimile: 601-352-0108.

Jury Trial Demanded

COMES NOW, Plaintiff Anne Donaldson, as the Personal Representative of Cephus Coleman, Jr., Deceased, by and through counsel of record, and files this Complaint against the Defendants and states as follows:

INTRODUCTION

1. This is an action for personal injury and wrongful death damages arising from negligent treatment, abuse and wrongful death of Cephus Coleman, Jr., while a patient of Grenada Living Center LLC and in the care of the other Defendants, their employees or agents from July 2003 until January 2004.
2. Plaintiff is in compliance with all provisions of the "Mississippi Medical Malpractice Tort Reform Act." Notice was given to the Defendants by certified mail, return receipt requested on June 28, 2004, which complies with [Miss. Code Ann. § 15-1-36](#) (15).
3. Plaintiff has complied with Miss. Code Ann. 11-1-38 by filing a Certificate of Consultation With an Expert with the Circuit Clerk.

I. PARTIES

4. Plaintiff Anne Donaldson is an adult resident citizen of Grenada, Grenada County, Mississippi.
5. Donaldson is the sister of the deceased and is a wrongful death beneficiary of Cephus Coleman, Jr. representing all other wrongful death beneficiaries.

6. Upon information and belief, Defendant Grenada Living Center LLC, operates a long term skilled nursing facility located at 1950 Grandview Drive, Grenada, Mississippi 38901, and may be served with process by serving its Registered Agent, CT Corporation System, at 645 Lakeland East Drive, Suite 101, Flowood, Mississippi, 39232.

7. Upon information and belief, Grenada Living Center LLC was at all times pertinent to this action an entity engaged in the operation of a nursing home which claimed to “specialize” in the care of helpless individuals who are chronically infirmed, mentally dysfunctional, and/or in need of skilled nursing care and treatment.

8. Upon information and belief, Defendant Community Care Center of Grenada LLC is a Mississippi Corporation that owns, controls, manages or supplies **financial** support or managerial expertise to Grenada Living Center LLC, and may be served with process through its registered agent Corporation Service Company at 506 S. President Street, Jackson, Mississippi, 39201.

9. Plaintiff reserves the right to change the identity of the named defendant in this complaint or to add additional defendants currently identified as John Does upon obtaining evidence of liability through discovery or otherwise.

10. Upon information and belief, Comm Care Mississippi is a Mississippi Corporation that owns, controls, manages or supplies **financial** support or managerial expertise to Grenada Living Center LLC, and may be served with process through its registered agent, Corporation Service Company at 506 S. President Street, Jackson, Mississippi, 39201.

11. Upon information and belief, James S. Williams is an adult resident of Mississippi, who was the Administrator of Grenada Living Center LLC during a portion of the dates of the occurrences that form the basis for this law suit and who may be served with process of this court at 1950 Grandview Drive, Grenada, Mississippi 38901.

12. Upon information and belief, James C. Landers is the licensee for Comm Care Mississippi, and may be served with process at 647 Ponce de Leon, Pass Christian, Mississippi, 39751.

13. Upon information and belief, John Doe, hereinafter MEDICAL DIRECTOR, is an adult resident of Mississippi, who was the Medical Director of Grenada Living Center LLC during the dates of the occurrences that form the basis for this law suit. The identity of MEDICAL DIRECTOR has not been determined at the time of the filing of this Complaint.

14. Upon information and belief, John Doe, hereinafter DIRECTOR OF NURSING, is an adult resident of Mississippi, who was Director of Nursing caring for Cephus Coleman, Jr. at Grenada Living Center LLC during the dates of the occurrences that form the basis for this law suit. The identity or identities of DIRECTOR OF NURSING have not been determined at the time of the filing of this Complaint.

II. GENERAL FACTUAL ALLEGATIONS

15. Cephus Coleman, Jr. was admitted to Grenada Living Center LLC on or about July 22, 2003 pursuant to an agreement under which Grenada Living Center LLC and/or other Defendants promised to provide appropriate food, shelter, and such other care as Cephus Coleman, Jr.'s condition reasonably required.

16. Cephus Coleman, Jr. remained a resident of Grenada Living Center LLC until January 22, 2004, the date of his death.

17. Cephus Coleman, Jr., upon admission to Grenada Living Center LLC:

- a. Had risk factors indicating he was susceptible to developing pressure ulcers;
- b. Had risk factors indicating that he was susceptible to dehydration;
- c. Had risk factors indicating that he was susceptible to malnutrition;

- d. Had risk factors indicating that he was in need of close supervision;
- e. Was able to take in food and liquids orally without the use of a feeding tube;
- f. Had risk factors indicating that he had special medical needs.

18. The Defendants knew or should have know of Cephus Coleman, Jr.'s condition including the matters set forth in the preceding paragraph.

19. During the time Cephus Coleman, Jr. was a resident of Grenada Living Center LLC:

- a. He developed bed sores and contractures;
- b. He became dehydrated;
- c. He became malnourished, losing excessive weight;
- d. He, was subjected to abuse, mistreatment, and rough handling;
- e. He became bed bound;
- f. He was kept in an unclean and unkept condition;
- g. He was administered psychoactive medication without appropriate monitoring of known side-effects and/or their effectiveness;

20. As a result of the negligence, gross negligence and intentional infliction of emotional harm, Cephus Coleman, Jr. suffered personal injury and, ultimately, wrongful death.

COUNT I

ADMINISTRATOR'S CONDUCT

- 21. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully rewritten herein.
- 22. Defendant James S. Williams is being sued in his individual capacity for his own acts of abuse, gross negligence and/or negligence.
- 23. Defendant James S. Williams was also at all relevant times an employee or agent of Grenada Living Center LLC.
- 24. As such, Grenada Living Center LLC and its parent companies and affiliates are vicariously liable for Defendant James S. Williams' conduct and for the conduct of all other employees and agents of Grenada Living Center LLC.
- 25. As Administrator of Grenada Living Center LLC, Defendant James S. Williams was responsible for developing and enforcing written policies and procedures to ensure adequate care and to prevent abuse, mistreatment, or neglect of residents including Cephus Coleman, Jr.

26. As Administrator of Grenada Living Center LLC, Defendant James S. Williams was directly responsible for supervising the Director of Nursing, the Medical Director, and all other employees in the administration of care plans for this resident.

27. As Administrator of Grenada Living Center LLC, Defendant James S. Williams was directly responsible for ensuring that adequate numbers of properly trained staff were hired and available to protect the health, safety and well being of all residents and to carry out appropriate treatment plans for all residents.

28. As Administrator of Grenada Living Center LLC, Defendant James S. Williams was directly responsible for developing, implementing and enforcing policies assuring prompt reporting of all incidents of abuse or neglect of or injury to residents, and also for reporting such incident to authorities as required by law.

29. As Administrator of Grenada Living Center LLC, Defendant James S. Williams was directly responsible for ensuring that all incidents of abuse or neglect or injury of residents, were promptly and thoroughly investigated and for preventing further abuse, neglect or injury during the investigation.

30. As Administrator of Grenada Living Center LLC, Defendant James S. Williams was the person directly responsible for planning, organizing, directing and controlling the operation of Grenada Living Center LLC.

31. As Administrator of Grenada Living Center LLC, Defendant James S. Williams had a duty to exercise the same degree of care that an ordinarily prudent Administrator of a nursing home would exercise in carrying out his duties.

32. Upon information and belief, Defendant James S. Williams, through his own actions and inaction failed to adhere to the standard of care that would be exercised by ordinarily prudent nursing home Administrator.

33. The pervasively inadequate environment created by the negligent and grossly negligent actions and inactions resulted in improper and negligent care and treatment of all residents. These actions and inactions included, but are not limited to:

- a. Permitting negligent and or grossly negligent care and abuse;
- b. Failing to report acts of neglect, gross neglect and abuse as required by law;
- c. Condoning the failure of employees to immediately report to supervisory personnel acts of neglect, gross neglect and abuse;
- d. Condoning the failure of employees to immediately report to supervisory personnel matters related to the residents' condition which needed attention;
- e. Condoning the failure to notify the residents' physicians and the residents' families in a timely manner, of actions which affected the residents' safety and well being;
- f. Failing to properly supervise the other employees in carrying out the duty to maintain acceptable nourishment, cleanliness, hydration, body weight, protein levels, or other indicators of appropriate nutritional status of the residents' and the duty to provide Cephus Coleman, Jr. with a therapeutic diet when there was a nutritional problem;
- g. Failing to monitor the effectiveness and side effects of psychoactive medications;
- h. Failing to obtain "Informed Consent prior to beginning psychoactive medications;
- I. Failing to properly supervise the Director of Nursing and the Medical Director in carrying out the duty to prevent residents who entered Grenada Living Center LLC without pressure sores, from developing pressure sores and the duty to provide necessary treatment and services to promote healing, prevent infection and prevent new sores from developing, once they developed;

- j. Failing to require the proper number and training of employees;
 - k. Failing to keep the environment as free of accident hazards as possible;
 - l. Failing to provide adequate staff to provide adequate supervision and assistance devices to prevent accidents, and to promote therapeutic recovery;
 - m. Failing to properly supervise those employees directly responsible for developing and maintaining an appropriate care plan to meet this resident's medical, nursing, mental and psychosocial needs;
 - n. Failing to provide sufficient numbers of adequately trained personnel to provide appropriate nursing care to this resident and other residents in accordance with appropriate resident care plans;
 - o. Failing to discharge employees when he knew or should have known of the employees' propensities for negligent care or abuse of residents;
 - p. Condoning and thus allowing and/ or encouraging, untrained/unlicensed or inadequately trained individuals to provide care to this resident;
 - q. Failing to ensure proper training for employees to deal with residents, including this resident, who were unable to care for themselves;
 - r. Failing to ensure proper training of employees to recognize medical conditions/symptoms which required additional treatment and which required this resident's transfer to the hospital and caused or hastened untimely death;
 - s. Failing to properly investigate the background of prospective employees;
 - t. Failing to properly supervise employees;
 - u. Failing to notify superiors of Grenada Living Center LLC employees' failure to properly care for residents, including this resident;
34. The foregoing described negligent and grossly negligent acts and/or omissions breached a duty of ordinary care and diligence to this resident and as a direct result and proximate cause of said breach of duty, this patient sustained injury, pain, damages, and wrongful death;
35. The aforementioned acts of Defendant James S. Williams were outrageous and performed wilfully, wantonly, and with complete and reckless disregard of this resident's rights, and in reckless indifference to the rights of others, and those acts further shock the conscience of the community. As a direct result of negligent and grossly negligent acts of Defendant James S. Williams, which included physical contact with this resident, Cephus Coleman, Jr. was caused to sustain serious personal injuries, endure great physical pain, degradation, severe mental anguish, and, finally, wrongful death.
36. Defendant James S. Williams's failure to carry out the duties set forth above constitutes a violation of [Miss. Code Ann. §43-47-19](#) which makes it unlawful for any person “to commi[t] an act or omi[t] the performance of any duty, which act or omission contributes to, tends to contribute to or results in the abuse, neglect or **exploitation** of any vulnerable adult....”
37. This failure contributed to or tended to contribute to abuse, neglect, gross neglect or **exploitation** of this resident.

38. Cephus Coleman, Jr. falls within the class of persons this statute is intended to protect, thus entitling him to adopt such laws as the standard of care for measuring this defendant's conduct. Thus, the Plaintiff asserts that the conduct of Defendant James S. Williams amounts to negligence per se.

39. Upon information and belief, Defendant James S. Williams wrongfully failed to carry out these duties which proximately caused injuries to and caused the wrongful death of the Cephus Coleman, Jr.. Separate and apart from [Miss. Code Ann. §43-47-19](#), this defendant's conduct failed to meet the standard of care in the nursing home industry owed by an Administrator to residents such as this resident thus constituting common law negligence and gross negligence as to amount of actual malice and willful, wanton or reckless disregard for the safety of Cephus Coleman, Jr.

COUNT II

DIRECTORS OF NURSING CONDUCT

40. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully rewritten herein.

41. The DIRECTORS OF NURSING are being sued in their individual capacity for their own acts of abuse and/or negligence.

42. The DIRECTORS OF NURSING were also at all relevant times an employee or agent of Grenada Living Center LLC or their affiliates.

43. As such, Grenada Living Center LLC and its parent companies and affiliates are vicariously liable for the DIRECTORS OF NURSING'S conduct.

44. The DIRECTORS OF NURSING had a duty to supervise the nursing staff of Grenada Living Center LLC which included making sure that all changes in Cephus Coleman, Jr.'s condition and all incidents affecting this resident's health, safety, and condition were promptly and properly addressed and recorded.

45. The DIRECTORS OF NURSING had a duty to assess the nursing care needs of residents, and to make appropriate recommendations to the Administrator concerning the number and level of training of nursing personnel needed to be employed to provide proper care for all residents including this resident.

46. The DIRECTORS OF NURSING had a duty to participate in the development and implementation of an appropriate care plan for Cephus Coleman, Jr. and to regularly review this resident's plan to assure that it was appropriate and that needed services and care were being provided.

47. The DIRECTORS OF NURSING had a duty to coordinate the health, medical, nursing and other resident care services for this resident.

48. The DIRECTORS OF NURSING had a duty to monitor psychoactive medications' known side effects and/or effectiveness.

49. The DIRECTORS OF NURSING had a duty to regularly review Cephus Coleman, Jr.'s medical records and to assure that orders were appropriately carried out.

50. The DIRECTORS OF NURSING had a duty to assure that matters related to this resident's health and safety and changes in his condition were promptly brought to the attention of the Medical Director, attending physicians, and his family.

51. The DIRECTORS OF NURSING had a duty to promptly and appropriately respond to all reports of incidents related to this resident's health and safety or change in her condition.

52. The DIRECTORS OF NURSING had a duty to exercise the care that would have been exercised by a prudent nursing director of a nursing home in carrying out the above duties.

53. Upon information and belief, the DIRECTORS OF NURSING failed to carry out these duties which constitutes a violation of [Miss. Code Ann. §43-47-19](#) which makes it unlawful for any person “to commi[t] an act or omi[t] the performance of any duty, which act or omission contributes to, tends to contribute to or results in the abuse, neglect or **exploitation** of any vulnerable adult...”

54. This failure contributed to or tended to contribute to abuse, neglect, gross neglect or **exploitation** of Cephus Coleman, Jr.

55. Cephus Coleman, Jr. falls within the class of persons that this statute is intended to protect, thus entitling her to adopt such laws as the standard of care for measuring Defendant's conduct. Thus, the Plaintiff asserts that the conduct of the DIRECTOR OF NURSING amounts to negligence per se.

56. Upon information and belief, the DIRECTORS OF NURSING wrongfully failed to carry out these duties which proximately caused injuries to and caused the wrongful death of this resident.

57. Separate and apart from [Miss. Code Ann. §43-47-19](#), the DIRECTORS OF NURSINGS' conduct failed to meet the standard of care in the nursing home industry owed by DIRECTORS OF NURSING to residents such as Cephus Coleman, Jr. thus constituting common law negligence and gross negligence as to amount to actual malice and willful, wanton or reckless disregard for the safety of Cephus Coleman, Jr.

COUNT III

MEDICAL DIRECTORS CONDUCT

58. Plaintiff incorporates by reference all preceding paragraphs of this Complaint as if fully re-written herein.

59. The MEDICAL DIRECTORS are being sued in their individual capacity for their own acts of abuse and/or negligence.

60. The MEDICAL DIRECTORS were also at all relevant times employees or agents of Grenada Living Center LLC.

61. As such, Grenada Living Center LLC and its parent companies and affiliates are vicariously liable for the MEDICAL DIRECTORS' conduct.

62. The MEDICAL DIRECTORS had a duty to coordinate and oversee Cephus Coleman, Jr.'s medical care while a resident of Grenada Living Center LLC.

63. This duty included the duty of assuring that appropriate medical care, therapy, medications and diet were being provided to her.

64. This duty also included monitoring the effectiveness and side-effects of psychoactive medication.

65. The MEDICAL DIRECTORS had a duty to review and monitor Cephus Coleman, Jr.'s care plan to assure that the care she was to receive was appropriate and to intervene and revise any inappropriate or inadequate care set forth in the plan.

66. The MEDICAL DIRECTORS had a duty to regularly review this resident's medical records to assure that the care being provided was appropriate and that necessary medical care was being provided.

67. The MEDICAL DIRECTORS had a duty to identify inadequate or inappropriate medications, diet, therapy, treatment, surgery and neglect or abuse of this resident and to respond by taking appropriate steps to correct the situation.

68. The MEDICAL DIRECTORS had a duty to evaluate and respond by correcting all inadequate or inappropriate care received by any resident and particular this resident, by taking appropriate steps to correct the situation.

69. The MEDICAL DIRECTORS had a duty to visit and evaluate this resident at least monthly or more often as his condition required.

70. The MEDICAL DIRECTORS had a duty to ensure that policies were in place and were being used to initially and periodically conduct, record and report to the other Defendants the results of an accurate and comprehensive assessment of the functional capacity of each resident of Grenada Living Center LLC.

71. The MEDICAL DIRECTORS had a duty to ensure that sufficient numbers and adequately trained staff were available to provide residents of Grenada Living Center LLC with nursing and other services needed for safe residents care.

72. The MEDICAL DIRECTORS had a duty to see that all residents attained and maintained the highest possible physical, mental and psychosocial well being.

73. The MEDICAL DIRECTORS had a duty to exercise the care that would be exercised by a prudent medical director in a nursing home in carrying out the above duties.

74. Upon information and belief, the MEDICAL DIRECTORS' failure to carry out these duties constitutes a violation of [Miss. Code Ann. §43-47-19](#) which makes it unlawful for any person “to commi[t] an act or omi[t] the performance of any duty, which act or omission contributes to, tends to contribute to or results in the abuse, neglect or **exploitation** of any vulnerable adult....”

75. This failure contributed to or tended to contribute to abuse, neglect, gross neglect or **exploitation** of Cephus Coleman, Jr.

76. Cephus Coleman, Jr. falls within the class of persons that this statute is intended to protect, thus entitling her to adopt such laws as the standard of care for measuring this Defendant's conduct.

77. Thus, the Plaintiff asserts that the conduct of the MEDICAL DIRECTORS amounts to negligence per se.

78. Upon information and belief, the MEDICAL DIRECTORS wrongfully failed to carry out these duties which proximately caused injuries to and caused the wrongful death of the Cephus Coleman, Jr.

79. Separate and apart from [Miss. Code Ann. §43-47-19](#), the MEDICAL DIRECTORS' conduct failed to meet the standard of care in the nursing home industry owed by medical directors to residents such as Cephus Coleman, Jr. thus constituting common law negligence and gross negligence as to amount to actual malice and willful, wanton or reckless disregard for the safety of Cephus Coleman, Jr.

COUNT IV

GRENADA LIVING CENTER LLC and ITS LICENSEES/ OWNERS CONDUCT AND LIABILITY

80. Plaintiff incorporates by reference all preceding paragraphs of this Complaint as if fully re-written herein.

81. Defendants Grenada Living Center LLC, Community Care Center of Grenada LLC, Comm Care Mississippi, Comm Care Mississippi, LLC, and James C. Landers are licensees, owners, or affiliated corporations in a control group with Grenada Living Center LLC.

82. These Defendants served as agents of Grenada Living Center LLC, its Licensees/Owners and/or Grenada Living Center LLC.

83. Grenada Living Center LLC, its Licensees/Owners, and affiliates held Grenada Living Center LLC out to be a specialist in the field of adult nursing care, with the expertise, staff and resources necessary to maintain the health and safety of persons unable to care adequately for themselves.

84. Grenada Living Center LLC and its Licensees/Owners were under a contractual duty to provide reasonable and adequate nursing home care to Cephus Coleman, Jr.

85. At all times pertinent hereto, Cephus Coleman, Jr. was a resident of Grenada Living Center LLC pursuant to the terms of the Resident Admission Agreement, and as such, was under the exclusive control and care of the employees and agents of Grenada Living Center LLC, its Licensees/Owners and their Officers, Directors, and affiliates.

86. Grenada Living Center LLC, its Licensees/Owners, affiliates and their agents and employees failed, refused, or neglected to perform their duties to provide reasonable and adequate health care for Cephus Coleman, Jr., who was unable to attend to his own health and safety.

87. While Cephus Coleman, Jr. was a resident at Grenada Living Center LLC, he was subjected to actions earlier set out in this Complaint and sustained serious injuries having occurred as a direct result of the improper care provided by Grenada Living Center LLC, its Licensees/Owners, affiliates, and/or their employees, agents and representatives, including mental and physical injury, pain and suffering and, ultimately, wrongful death.

88. While this resident was at Grenada Living Center LLC, he sustained serious injuries including emotional trauma and physical injuries leading to his wrongful death, said injuries having occurred as a direct result of the improper care provided by these defendants.

89. Upon information and belief, the mistreatment by Grenada Living Center LLC, its Licensees/Owners, Officers, Directors, affiliates and/or their employees, agents and representatives included, but was not limited to, the following:

- a. Permitting negligent care and abuse of this resident;
- b. Failing to report acts of neglect and abuse of this resident as required by law;
- c. Condoning the failure of employees to immediately report to supervisory personnel, acts of neglect and abuse of this resident;
- d. Condoning the failure of employees to immediately report to supervisory personnel matters related to Cephus Coleman, Jr.'s condition which needed attention;
- e. Failing to notify this resident's treating physician and his family in a timely manner of actions which affected her safety and well being;
- f. Failing to monitor the effectiveness and side-effects of psychoactive medications;

- g. Failing to maintain acceptable body weight, hydration, protein levels, and other indicators of appropriate nutritional status of this resident;
- h. Failing to provide him with a therapeutic diet when there was a nutritional problem;
- I. Failing to prevent Cephus Coleman, Jr., who entered Grenada Living Center LLC wound free from developing pressure sores;
- j. Failing to provide necessary treatment and services to promote healing of pressure sores, prevent infection and prevent new sores from developing;
- k. Failure to provide necessary treatment and service to prevent urinary tract infection;
- l. Failing to properly train employees to deal with residents who were likely to develop pressure sores;
- m. Failing to keep this resident's environment as free of accident hazards as was possible;
- n. Failing to provide her with adequate supervision and assistance devices to prevent accidents;
- o. Failing to develop and maintain an appropriate care plan to meet Cephus Coleman, Jr.'s medical, nursing, mental and psychosocial needs;
- p. Failing to adhere to an appropriate care plan for Cephus Coleman, Jr.;
- q. Failing to conduct appropriate and adequate assessment of his condition on admission, at appropriate regular intervals and after a significant change in her condition;
- r. Failing to provide sufficient numbers of adequately trained personnel to provide appropriate nursing care to Cephus Coleman, Jr. in accordance with his resident care plan;
- s. Failing to discharge employees when the facility knew or should have known of the employees' propensities for negligent care or abuse of residents;
- t. Condoning and thus allowing, untrained/unlicensed or inadequately trained individuals to provide care to Cephus Coleman, Jr.;
- u. Failing to properly train employees to deal with residents, including this resident, who were unable to care for themselves;
- v. Failing to train employees to recognize medical conditions/symptoms which required additional treatment and which caused or hastened his untimely death;
- w. Failing to properly investigate the background of prospective employees;
- x. Failing to properly supervise the Administrator and management of Grenada Living Center LLC;
- y. Failing to notify the Mississippi Attorney General's office of Grenada Living Center LLC's failure to properly care for residents, including Cephus Coleman, Jr., as required by law.

90. As a direct result of the negligence, gross negligence and abuse of Grenada Living Center LLC, its Licensee/Owner, Officers, Directors, affiliates and their the agents and employees, Cephus Coleman, Jr. sustained serious personal injuries, endured great physical pain and mental anguish, and wrongful death.

91. Damages will be in an amount to be proven at trial, but are within the jurisdictional amount of this Court.

92. That the aforementioned acts of Grenada Living Center LLC, its Licensee/Owner, Officers, Directors, affiliates and its employees involved physical contact with Cephus Coleman, Jr. and were outrageous and performed wilfully, wantonly and with complete and reckless disregard of his rights and in reckless indifference to the rights of others, and in that those acts further shock the conscience of the community, plaintiff seeks punitive damages.

93. Upon information and belief, Grenada Living Center LLC and its Licensee/Owner failed to carry out these duties which constitutes a violation of [Miss. Code Ann. §43-47-19](#) which makes it unlawful for any person “to commi [t] an act or omi[t] the performance of any duty, which act or omission contributes to, tends to contribute to or results in the abuse, neglect or **exploitation** of any vulnerable adult....”

94. This failure contributed to or tended to contribute to abuse, neglect, gross neglect or **exploitation** of Cephus Coleman, Jr.

95. Cephus Coleman, Jr. falls within the class of persons that this statute is intended to protect, thus entitling Cephus Coleman, Jr. to adopt such laws as the standard of care for measuring defendant's conduct. Thus, the Plaintiff asserts that the conduct of Grenada Living Center LLC, its Licensee/Owner, Officers, Directors, and affiliates amounts to negligence per se.

96. Upon information and belief, Grenada Living Center LLC and its Licensee/Owner wrongfully failed to carry out these duties which failure proximately caused injuries to and caused the wrongful death of this resident.

97. Separate and apart from [Miss. Code Ann. §43-47-19](#), the conduct of Grenada Living Center LLC and its Licensee/Owner failed to meet the standard of care in the nursing home industry owed by Grenada Living Center LLC and its Licensee/Owner to Cephus Coleman, Jr. thus constituting common law negligence and gross negligence as to amount to actual malice and willful, wanton or reckless disregard for the safety of Cephus Coleman, Jr.

COUNT V

INFLICTION OF EMOTIONAL DISTRESS

98. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully rewritten herein.

99. The acts of each of the Defendants set forth above were outrageous and performed wilfully, wantonly and with complete and reckless disregard of Cephus Coleman, Jr.'s rights and in reckless indifference to the rights of others. Those acts further shock the conscience of the community and caused Cephus Coleman, Jr. to suffer severe mental anguish and emotional distress.

COUNT VI

MISREPRESENTATION AND COMMON LAW FRAUD

100. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully written herein.

101. When Cephus Coleman, Jr. was admitted to Grenada Living Center LLC, Grenada Living Center LLC and one or more of its agents or other Defendants named above made the following representations to him.

- a. Grenada Living Center LLC was a facility with the resources and expertise to provide appropriate care to the chronically infirm, mentally dysfunctional, and/or those in need of skilled nursing care and treatment;
- b. Grenada Living Center LLC and its agents would provide appropriate care for him; and
- c. Other representations and promises to his family regarding the cleanliness, personal hygiene, quality and quantity of professional nursing and safety protection that would be provided.

102. These representations were false.

103. These representations were material to the contract to care for Cephus Coleman, Jr.

104. Those who made these representations either knew or should have known of their falsity and acted with disregard to the truth of their statements.

105. The defendants knew or should have know that Grenada Living Center LLC did not have the resources to provide appropriate care and supervision to its residents and that it had previously failed to provide adequate care to residents and that Cephus Coleman, Jr., therefore, could not be assured of being properly cared for.

106. Those making these representations intended Cephus Coleman, Jr. and his family to act on these representations by entering into an agreement for Cephus Coleman, Jr. to be admitted to Grenada Living Center LLC.

107. Cephus Coleman, Jr. and his family were ignorant of the falsity of these representations.

108. Cephus Coleman, Jr. and his family relied on these representations.

109. Cephus Coleman, Jr. and his family had a right to rely on these representations.

110. Cephus Coleman, Jr. suffered injuries and wrongful death set forth elsewhere in this Complaint as a proximate result of these misrepresentations.

WHEREFORE, Plaintiff prays for:

- A. Judgment on Counts I through VI this Complaint in an amount to be proven at trial, but in excess of the minimum jurisdictional amount of the Court;
- B. Medical expense and funeral expense;
- C. Past mental and physical pain, distress, physical and mental suffering;
- D. Damages for the wrongful death of the Cephus Coleman, Jr.;
- E. Miscellaneous expenses incurred by the Cephus Coleman, Jr. and Plaintiff, including but not limited to funeral, burial, and travel expenses to and from the hospital and or morgue, necessitated by the negligent acts of the Defendants or those whose actions for which they were responsible;
- F. Exemplary and punitive damages on each Count herein in an amount reasonably calculated to prevent the culpable defendants and others from engaging in such conduct in the future;

G. Pre-judgement and post-judgement interest where applicable; H. For Trial by Jury on those issues so triable;

I. For Plaintiff's costs, including reasonable attorneys fees, incurred in connection with this matter; and

J. For any and all other relief to which Plaintiff may be entitled in law or equity.

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